

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
DELTA DIVISION**

GEORGE WILLIAMS

PLAINTIFF

VS.

CAUSE NO. 2:12CV00049-JMV

**MICHAEL J. ASTRUE
COMMISSIONER OF SOCIAL SECURITY**

DEFENDANT

FINAL JUDGMENT

Pursuant to a hearing held before the undersigned United States Magistrate Judge, the court has determined that this case should be remanded to the Commissioner of Social Security for additional proceedings.

The court finds that the ALJ's step five determination that the claimant "is capable of making a successful adjustment to other work that exists in significant numbers in the national economy" is not supported by substantial evidence in the record because the vocational expert ("VE") testimony upon which the ALJ relied was based upon a flawed hypothetical. Specifically, the relevant hypothetical proffered to the VE during the hearing included a residual functional capacity ("RFC") that was less limited with regard to the claimant's ability to push and pull with the right upper and left lower extremities¹ than the RFC found by the ALJ and recited in his decision². Therefore, this case shall be remanded to the Commissioner with

¹The ALJ stated the hypothetical individual could "push and pull 20 pounds, but less than 10 with the left upper extremity and the right lower extremity."

²The ALJ's decision recites: "The claimant can push/pull 20 pounds occasionally and 10 pounds frequently. However, the claimant is limited to pushing/pulling only 10 pounds with the left upper extremity

instructions to refer the matter to an ALJ for reconsideration. The ALJ may conduct additional proceedings including, but not limited to, recontacting the vocational expert or obtaining new vocational expert testimony on the issue of whether there are other jobs the claimant can perform considering his RFC and other relevant factors.

The parties, having consented to entry of final judgment by the United States Magistrate Judge under the provisions of 28 U.S.C. § 636(c), with any appeal to the Court of Appeals for the Fifth Circuit,

IT IS, THEREFORE, ORDERED AND ADJUDGED that this case is **REVERSED AND REMANDED** to the Commissioner for further proceedings as set out above.

THIS 27th day of August, 2012.

/s/ Jane M. Virden
U. S. MAGISTRATE JUDGE

and right lower extremity.”